

## GSA Board of Contract Appeals

## 6101.3

The Board may also amend, alter, or vacate a ruling, order, or direction upon such terms as are just. In making rulings and issuing orders and directions pursuant to the rules in this part and part 6102, the Board takes into consideration those Federal Rules of Civil Procedure which address matters not specifically covered in this part and part 6102.

(e) *Panels.* Each case will be assigned to a panel consisting of three judges, with one member designated as the panel chairman, in accordance with such procedures as may be established by the Board. The panel chairman is responsible for processing the case, including scheduling and conducting proceedings and hearings. In addition, the panel chairman may, without participation by other panel members, decide an appeal under the small claims procedure (6102.2), rule on nondispositive motions (except for amounts in controversy under 6102.2(a)(2)), and dismiss a case if no party objects (6101.28(c)). All other matters, except for those before the full Board under 6101.30, are decided for the Board by a majority of the panel.

(f) *Situs.* The address of the Office of the Clerk of the Board is: Room 7022, General Services Administration Building, 18th and F Streets, NW., Washington, DC 20405. The Clerk's telephone number is: (202) 501-0116. The Clerk's facsimile machine number is (202) 501-0664.

### **6101.2 Time: enlargement; computation [Rule 102].**

(a) *Time for performing required actions.* All time limitations prescribed in the rules in this part and part 6102 or in any order or direction given by the Board are maximums, and the action required should be accomplished in less time whenever possible.

(b) *Enlarging time.* Upon request of a party for good cause shown, the Board may enlarge any time prescribed by the rules in this part and part 6102 or by an order or direction of the Board. The exception is the time limit for filing appeals (6101.5(b)(1)). A written request is required, but in exigent circumstances an oral request may be made and followed by a written request. An enlargement of time may be

granted even through the request was filed after the time for taking the required action expired, but the party requesting the enlargement must show good cause for its inability to make the request before that time expired.

(c) *Computing time.* Except as otherwise required by law, in computing a period of time prescribed by the rules in this part and part 6102 or by order of the Board, the day from which the designated period of time begins to run shall not counted, but the last day of the period shall be counted unless that day is (1) a Saturday, a Sunday, or a federal holiday, or (2) a day on which the Office of the Clerk of the Board is required to close earlier than 4:30 p.m., or does not open at all, as in the case of inclement weather, in which event the period shall include the next working day. Except as otherwise provided in this paragraph, when the period of time prescribed or allowed is less than 11 days, any intervening Saturday, Sunday, or federal holiday shall not be counted. When the period of time prescribed or allowed is 11 days or more, intervening Saturdays, Sundays, and federal holidays shall be counted. Time for filing any document or copy thereof with the Board expires when the Office of the Clerk of the Board closes on the last day on which such filing may be made.

### **6101.3 Service of papers [Rule 103].**

(a) *On whom and when service must be made.* When a party sends a document to the Board it must at the same time send a copy to the other party by mail or some other equally or more expeditious means of transmittal. Subpoenas (6101.20) and documents filed *in camera* (6101.12(h)) are exceptions to this requirement. Any papers required to be served on a party (except requests for discovery and responses thereto, unless ordered by the Board to be filed) shall be filed with the Board before service or within a reasonable time thereafter.

(b) *Proof of service.* Except when service is not required, a party sending a document to the Board must indicate to the Board that a copy has also been sent to the other party. This may be done by certificate of service, by the notation of a photostatic copy (cc:), or

by any other means that can reasonably be expected to indicate to the Board that the other party has been provided a copy.

(c) *Failure to make service.* If a document sent to the Board by a party does not indicate that a copy has been served on the other party, the Board may return the document to the party that submitted it with such directions as it considers appropriate, or the Board may inquire whether a party has received a copy and note on the record the fact of inquiry and the response, and may also direct the party that submitted the document to serve a copy on the other party. In the absence of proof of service a document may be treated by the Board as not properly filed.

#### 6101.4 Appeal file [Rule 104].

(a) *Submission to the Board by the contracting officer.* (1) Within 30 calendar days from receipt of notice that an appeal has been filed, or within such time as the Board may allow, the contracting officer shall file with the Board appeal file exhibits consisting of all documents and other tangible things relevant to the claim and to the contracting officer's decision which has been appealed, including:

- (i) The contracting officer's decision, if any, from which the appeal is taken;
  - (ii) The contract, if any, including amendments, specifications, plans, and drawings;
  - (iii) All correspondence between the parties that is relevant to the appeal, including the written claim or claims that are the subject of the appeal, and evidence of their certification, if any;
  - (iv) Affidavits or statements of any witnesses on the matter in dispute and transcripts of any testimony taken before the filing of the notice of appeal;
  - (v) All documents and other tangible things on which the contracting officer relied in making the decision, and any correspondence relating thereto;
  - (vi) The abstract of bids, if relevant; and
  - (vii) Any additional existing evidence or information deemed necessary to determine the merits of the appeal.
- (2) The contracting officer shall serve a copy of the appeal file on the appellant at the same time that the con-

tracting officer files it with the Board, except that

(i) The contracting officer need not serve on the appellant those documents furnished the Board *in camera* pursuant to 6101.12(h), and

(ii) The contracting officer shall serve documents submitted under protective order only on those individuals who have been granted access to such documents by the Board. However, the contracting officer must serve on the appellant a list identifying the specific documents filed *in camera* or under protective order with the Board, giving sufficient details necessary for their recognition. This list must also be filed with the Board as an exhibit to the appeal file.

(b) *Submission to the Board by the appellant.* Within 30 calendar days after filing of the respondent's appeal file exhibits, or within such time as the Board may allow, the appellant shall file with the Board for inclusion in the appeal file documents or other tangible things relevant to the appeal that have not been submitted by the contracting officer. The appellant shall serve a copy of its additional exhibits upon the respondent at the same time as it files them with the Board.

(c) *Submissions on order of the Board.* The Board may, at any time during the pendency of the appeal, require any party to file other documents and tangible things as additional exhibits.

(d) *Organization of the appeal file.* Appeal file exhibits may be originals or true, legible, and complete copies. They shall be arranged in chronological order within each submission, earliest documents first; bound in a loose-leaf binder on the left margin except where size or shape makes such binding impracticable; numbered; tabbed; and indexed. The numbering shall be consecutive, in whole arabic numerals (no letters, decimals, or fractions), and continuous from one submission to the next, so that the complete file, after all submissions, will consist of one set of consecutively numbered exhibits. In addition, the pages within each exhibit shall be numbered consecutively unless the exhibit already is paginated in a logical manner. Consecutive pagination of the entire file is not required. The index